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UNCLAS SECTION 01 OF 02 VIENTIANE 000564

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DEPT FOR EB AND EAP/MLS
DEPT PASS TO USTR FOR DAVID BRISBEE

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TAGS: [ETRD](#) [KIPR](#) [EFIN](#) [LA](#)
SUBJECT: USTR VISIT TO LAOS

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¶1. Summary. On June 21 and 22 USTR Director for Southeast Asia and Pacific, David Bisbee, met with GoL officials from the Ministry of Industry and Commerce (MIC), Customs and Tax Officials from the Ministry of Finance (MoF), the IPR officers in the Science, Technology and Environment Section in the Office of the Prime Minister, and the Committee for Investment and Planning. With all his interlocutors, Bisbee emphasized the need to quickly and fully implement the Bilateral Trade Agreement (BTA) with the US, and to improve the business and investment climate generally. On behalf of US companies, he also made specific points regarding outstanding IPR and level playing field issues. End Summary.

Ministry of Industry and Commerce

¶2. At MIC, Mr. Bisbee emphasized the USG's desire to engage with the Southeast Asian Region economically, especially in ASEAN contexts. He urged the GoL to keep an eye on the progress of Vietnam's BTA, and to emulate it. An improved investment climate and BTA implementation have been key to Vietnam's progress toward WTO accession, and should be for Laos, as well. He told his interlocutors that national treatment and IPR are among the primary BTA components, and that the Lao services sector, particularly, needs outside competition. Countries who undertake to reform the service sectors benefit quickly. He reminded them of their obligation to share drafts of laws and regulations affecting trade, so that the USG may comment on them in a timely manner. He inquired about progress toward Lao entry into the World Customs Organization (WCO). MIC officials said that they are in the process of entering WCO, and are currently running a series of workshops intended to facilitate the process.

¶3. The MIC praised Embassy sponsored NTR/BTA seminars conducted during 2005, and suggested that more such activities would be useful in educating the Lao business and official communities. They maintained that Laos is indeed moving forward on BTA implementation and does intend to eventually enter the WTO, with a second working group meeting before the end of 2006. They are currently working to answer the questions put by the USG and Australia during 2004-05. After mentioning that some of the items in Annex A of the BTA are no longer controlled, and may be removed, they inquired about the long-awaited (USG-produced) authoritative Lao Language version of the BTA, which they need to post on their website.

STEA: Intellectual Property

14. At STEA, the first order of business was IPR violations by Lao Telecom, which has illegally acquired and retailed a UBC signal with American content from a Thai source. STEA's Director of Intellectual Property, Khalansy Keobounpanh, responded positively, saying that upon being informed of the matter by the Embassy, he had begun an investigation. His first approach was parried by Lao Telecom's legal section, which claimed to have a valid agreement with UBC for the signal (but did not produce it). He said that he will make a second approach, with greater ministerial and law enforcement support, beginning with an inter-ministerial meeting on June 26.

15. In response to questions about the IPR Law, Keobounpanh replied that the draft law, covering patents and copyrights is in now in the National Assembly, but is unlikely to pass in this session due to the confusion of setting up a new government. The law will contain both civil and criminal sanctions and will be TRIPS compliant. Meanwhile, supporting regulations are also being drafted, and he agreed to furnish these to the USG. He praised the training given him and his assistant by USPTO and hoped that the USG will keep it up. Bisbee replied that an American IPR legal expert will shortly take up residence in Amembassy Bangkok, and that her expertise will be available to IPR enforcement offices throughout the region.

Customs

16. In response to Bisbee's questions regarding Lao Customs procedures, Lao Customs officials, led by Bounthoum Lomany complained of inadequate staff and asked for assistance in publishing their laws and regulations (something that can be done adequately on the internet). They complained of a lack of training and equipment. Lao Customs would welcome a closer relationship with US Customs, in order to build its

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capacity. Referring to the NTE, the Lao wished that US would take cognizance of the fact that many of the personnel doing customs work around the country are not actually Customs officials, but come from other offices and ministries. Bisbee remarked that the procedures they described were unduly cumbersome, whoever was applying them, and discourage commerce. When asked about tariffs they referred to three extant tariff schedules, newly revised, for ASEAN, the BTA, and regular MFN. When asked for clarification on any differences between the BTA and MFN, they promised to furnish us with the schedules. (Comment: Post does not expect to find differences between the BTA Annex Tables and MFN, and has told the GoL in the past that we expect US products to enter the country at the lowest rate, regardless of whether that is defined as an ASEAN rate or MFN.)

17. The Tax Office Deputy Director, Maniwon Insisiangmai met with Bisbee separately to explain the GoL's impending switch to a VAT, and the abandonment of the current tax structure, which has a turnover tax that disadvantages imported goods and therefore violates National Treatment clauses in the BTA. The law and implementing regulations are being drafted. She seemed taken aback by a request to examine the drafts, but upon being told that this is a BTA requirement, she promised to request permission from the new Minister ASAP.

CPI

18. At the Committee for Planning and Investment (CPI) Bisbee took up the question of a level playing field for all potential investors, with special reference to an American soft-drink company whose application was recently denied for unclear reasons. Thongmy Phomvixay, the CPI

Vice-President, insisted that all investment, especially American, is welcome and he outlined in detail the steps CPI has taken to ensure this. He referred particularly to the amended Investment Law, which is indeed liberal on paper. He claimed that investment is up (citing only the large Nam Theun II Hydropower Project and Australian Oxiana's gold and copper mining in the south-central part of the country), and claimed that many Americans have inquired about investing, though admittedly thus far only on small scales. He professed to be keen to further reform the investment climate and to attract higher levels of FDI.

¶9. Bisbee maintained that the treatment afforded the American company in question was emblematic of the opaque investment climate in Laos, and strongly urged the GoL to reconsider their application, should they re-apply. The Americans then heard from the Director of the Investment Office (with whom we have had previous dealings on this issue), who said that the market is still too small to absorb the products of more soft drink ventures, and that they should wait until 2008 or 2009. The American side replied that that was far too long for business purposes, and that in any case, this is a business decision for investors to make - and not properly within the purview of government. (Comment: The new President of CPI, Soulivong Daravong, who was out of the country when Bisbee visited, has proven to be forward thinking in the past. Post will pursue this matter with him ASAP.)

¶11. The American side mentioned an impending visit of the US-ASEAN Business Council in late July as an opportunity for the CPI to put its best foot forward and demonstrate that the investment climate is indeed improving.

¶12. Bisbee departed Post before being able to clear this message.
BAUER